

The opinion in support of the decision being entered today
was **not** written for publication in
and is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DEVIN F. HOSEA, ARTHUR P. RASCON, RICHARD S. ZIMMERMAN,
ANTHONY SCOTT ODDO and NATHANIEL THURSTON

Appeal No. 2006-1247
Application No. 09/558,755

MAILED

AUG 29 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before OWENS, BAHR, and FETTING, **Administrative Patent Judges**.

FETTING, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. §134 from the examiner's final
rejection of claims 1 through 63, which are all of the claims pending in this application.

We AFFIRM IN PART.

BACKGROUND

The appellants' invention relates to a method and system for profiling a web user. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method of profiling a Web user, comprising:
 - providing profiles on a plurality of Web sites;
 - using a computer to monitor which of said plurality of Web sites the user accesses; and
 - using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites accessed by the user.

PRIOR ART

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Roth et al. (Roth)	6,285,987	Sept. 4, 2001 (filed January 22, 1997)
Bull et al. (Bull)	6,208,975	Mar. 27, 2001 (filed June 19, 1997)
Sheena et al. (Sheena)	6,049,777	Apr. 11, 2000 (filed March 14, 1997)
Eldering	6,298,348	Oct. 2, 2001 (filed March 12, 1999)
Park et al. (Park)	6,295,061	Sep. 25, 2001 (filed Nov. 30, 1999)
Haitsuka et al. (Haitsuka)	6,366,298	Apr. 2, 2002 (filed Jun 3, 1999)

REJECTIONS

Claims 1-14¹, 20, 22-24, 26-57 and 62-63 stand rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull.

Claims 15-18 stand rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Sheena.

Claim 19 stands rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Eldering.

Claims 21 and 58-61 stand rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Park.

Claim 25 stands rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Haitsuka.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejection, we make reference to the examiner's answer (mailed 11/3/2005) for the reasoning in support of the rejection, and to appellants' brief (filed 3/21/2005) for the arguments thereagainst.

¹ We note that the Final Rejection and the Appeal Brief both indicated that the rejection of claims 3-6 and 10 were over Roth alone under 35 USC 103, although these claims are dependent from claim 1. The examiner changed the rejection to Roth in view of Bull in the Examiner Answer. The appellants did not raise this as an issue, and therefore, we regard this as an obvious typographic error on the part of the examiner that was recognized as such by both parties and corrected in the Examiner Answer.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations that follow.

Claims 1-14, 20, 22-24, 26-57 and 62-63 rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull.

The appellants argue that neither reference describes using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites accessed by the user. [See Brief at p. 12].

The examiner responds that Bull describes collecting profile information that includes demographic information through analysis of on-line activity [col. 1 lines 53-56; col. 5, lines 24-29; and col. 10, lines 60-67 – See Answer at p. 15-16]. We note that Bull does disclose collecting demographic and other data through several means including analysis, which implies inference, of on-line activity in the portions cited by the examiner.

We further note that Roth similarly describes using web profile demographics in its database to develop user profiles stored in that database

Web site demographic data can be collected from commercially available sources and entered into data base 16D [sic, 16B] [See col. 18 lines 51-53].

The tables 16B are *updated* as to the view-op just bought (as to all view-op data of the just sold item including *Historic Viewer Data* such as Site, Viewer, Time seeing this exposure, etc.). [See col. 12 lines 34-38]

and Roth also describes the notoriety of using profiles of web sites to infer the characteristics of users

Using standard HTTP facilities it is possible to track when a particular viewer accesses a web site and thus **it is possible to compile a data base which in essence provides a profile of the sites a particular viewer has accessed**. Furthermore, it is known that **particular categories of viewers generally access particular types of web sites**. The capabilities inherent in the World Wide Web for tracking the sites that a viewer has seen provides a mechanism for targeting particular advertisements to particular categories of viewers. [See col. 1 lines 29-38].

Therefore, because both Bull and Roth describe using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites accessed by the user, appellants' argument is unpersuasive.

The appellants next argue that neither Roth nor Bull describe the identification of the uniform resource locator (URL) requests in claim 11 or the location of the identification as occurring at the internet service provider (ISP) point of presence in claim 12 and 23. [See Brief at p. 14-15] The examiner responds that these limitations are shown by Roth at col. 8, lines 20-26, Fig. 4, ref. 408 (table) and Fig. 7, ref. 712

(ISP). We note that this portion of Roth does indeed describe the claim 11 limitation of identifying URL requests made by the user while web surfing, but it fails to indicate that this occurs at the ISP point of presence as required by claims 12 and 23. We note that the point of presence is not defined within the specification, but that this is a term known in the art to mean an access point to the Internet [See for example Wikipedia "An Internet point of presence is an access point to the Internet."] Nothing in the portion of Roth identified by the examiner describes the identification of URL's as occurring at the ISP point of presence. Therefore, although we find the examiner's argument as to claim 11 to be persuasive, we find the examiner's argument as to claims 12 and 23 to be unpersuasive.

Accordingly, we sustain the examiner's rejection of claims 1-11, 13, 14, 20, 22, 24, 26-57 and 62-63 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull. However, we do not sustain the examiner's rejection of claims 12 and 23 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull.

Claims 15-18 rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Sheena.

The appellants argue that claims 15-18 are patentable for the same reasons as claim 1, which rejection we have sustained above. Accordingly, we sustain the examiner's rejection of claims 15-18 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Sheena.

Claim 19 rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Eldering.

The appellants argue that claim 19 is patentable for the same reasons as claim 1, which rejection we have sustained above. Accordingly, we sustain the examiner's rejection of claim 19 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Eldering.

Claims 21 and 58-61 rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Park.

The appellants argue that claims 21 and 58-61 are patentable for the same reasons as claim 1, which rejection we have sustained above. Accordingly, we sustain the examiner's rejection of claims 21 and 58-61 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Park.

Claim 25 rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Haitsuka.

The appellants argue that claim 25 is patentable for the same reasons as claim 22, which rejection we have sustained above. Accordingly, we sustain the examiner's rejection of claim 25 as rejected under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Haitsuka.

CONCLUSION

To summarize,

- The rejections of claims 1-11, 13, 14, 20, 22, 24, 26-57 and 62-63 under 35 U.S.C. § 103 as obvious over Roth in view of Bull, are **sustained**.
- The rejections of claims 12 and 23 under 35 U.S.C. § 103 as obvious over Roth in view of Bull, are **not sustained**.
- The rejections of claims 15-18 under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Sheena, are **sustained**.
- The rejection of claim 19 under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Eldering, is **sustained**.
- The rejections of claims 21 and 58-61 under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Park, are **sustained**.
- The rejection of claim 25 under 35 U.S.C. § 103 as obvious over Roth in view of Bull and further in view of Haitsuka, is **sustained**.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED IN PART

Terry J. Owens
TERRY J. OWENS
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

ANTON W. FETTING
Administrative Patent Judge

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Patterson & Sheridan, LLP
Sedna Patent Services, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

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